

Book 00762:0915 Augusta - Richmond County  
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\$18.00 DECLARATION RESTRICTIVE COVENA  
2001037033 Augusta - Richmond County

AFTER RECORDING RETURN TO:  
Carol Geiger  
Kilpatrick Stockton LLP  
1100 Peachtree Street, Suite 2800  
Atlanta, Georgia 30309-4530

DECLARATION OF RESTRICTIVE COVENANTS AND NOTICE

THIS DECLARATION is made this 3<sup>rd</sup> day of December, 2001, by  
ATLANTA GAS LIGHT COMPANY a Georgia Corporation (hereinafter referred to as  
"Declarant").

**WITNESSETH:**

WHEREAS, Declarant owns the property described on Exhibit "A" hereto attached  
and made a part hereof (the "Property"); and

WHEREAS, the Property contains "hazardous substances" as defined under the  
Georgia Hazardous Site Response Act, O.C.G.A. §12-8-90, *et seq.*, and, accordingly,  
Declarant desires to restrict the use of the Property as provided herein.

NOW, THEREFORE, Declarant does hereby subject the Property to the covenants,  
restrictions, easements and rights hereinafter stated:

1. Definitions. For purposes of this Declaration, the following terms shall have  
the following meanings, unless the context requires otherwise:

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"AGLC" shall mean Atlanta Gas Light Company, a Georgia corporation, its successors and assigns.

"Director" shall mean the Director of EPD, as hereinafter defined.

"EPD" shall mean the Georgia Department of Natural Resources, Environmental Protection Division, as well as any successor state agency with responsibility for and jurisdiction over environmental matters.

"Hazardous Substances" shall have the same meaning as under HSRA, as hereinafter defined.

"HSRA" shall mean the Hazardous Site Response Act, O.C.G.A. § 12-8-90, *et seq.*

2. Restrictive Covenants. Declarant hereby:

- a. prohibits the use of groundwater beneath the Property as a source of drinking water or for any other purpose that could result in human ingestion as defined in the Rules for HSRA, Rule 391-3-19-.02(2)(i), incorporated herein by reference, in effect at the time of this Declaration;
- b. restricts the use of the Property to non-residential uses as defined in the Rules for HSRA in effect at the time of this Declaration;
- c. prohibits the disturbance of any material stabilized in accordance with the Corrective Action Plan submitted on March 27, 2001 and all modifications submitted thereafter, without prior notice to and approval from EPD; and
- d. agrees to install and maintain permanent markers on each side of the Property that delineate the restricted area and prohibits the disturbance or removal of such markers.

This Declaration is made in accordance with Ga. Comp. R. & Regs. 391-3-19-.08(7), which expressly authorizes the use of restrictive covenants to prohibit activities on the Property that may substantially interfere with a remedial action, operation and maintenance, long-term monitoring, or other measures to ensure the integrity of any remedial action. The foregoing are hereinafter collectively referred to as the "Restrictive Covenants".

3. Improvements. Any and all improvements located in whole or in part on all or any portion of the Property, and the construction, operation, use and maintenance of the Property and such improvements, shall be subject to and shall comply with the Restrictive Covenants.

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4. Covenants running with the land. Declarant acknowledges and agrees that the Restrictive Covenants are appurtenant to and run with the land, and shall be binding and enforceable against all future owners of the Property including Declarant, its successors and assigns, and any trustee appointed to manage the Property. Should a transfer or sale of the Property occur before such time as the Restrictive Covenants have been amended or revoked then said Restrictive Covenants shall be binding on the transferee(s) or purchaser(s).

The Restrictive Covenants shall inure to the benefit of EPD, AGLC and their respective successors and assigns and shall be enforceable by the Director or his agents or assigns and AGLC or its successors and assigns in a court of competent jurisdiction. The Restrictive Covenants shall remain in full force and effect in accordance with O.C.G.A. § 44-5-60(c), unless and until the Director determines that the Property meets Type 1 or 2 Risk Reduction Standards, as defined in the Rules for Hazardous Site Response Chapter 391-3-19-.07.

5. Severability. In the event that any of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal or unenforceable in any respect in a final ruling or judgment of a court of competent jurisdiction from which no appeal has been or can be taken, the remainder of the Restrictive Covenants shall not be affected thereby and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

6. Statutory Notice. This property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. Contact the property owner or the Georgia Environmental Protection Division for further information concerning this property. This notice is provided in compliance with the Georgia Hazardous Site Response Act.

7. General Provisions.

(a) Headings. The use of headings, captions and numbers in this Declaration is solely for the convenience of identifying and indexing the various provisions in this Declaration and shall in no event be considered otherwise in construing or interpreting any provision in this Declaration.

(b) Non-Waiver. Failure by any party to complain of any action, non-action or breach of any other party shall not constitute a waiver of any aggrieved party's rights hereunder. Waiver by any party of any right arising from any breach of any other party shall not constitute a waiver of any other right arising from a subsequent breach of the same obligation or for any other default, past, present or future.

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(c) Time of Essence. Time is of the essence of this Declaration.

(d) Applicable Law. This Declaration shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of Georgia.

IN WITNESS WHEREOF, Declarant has signed and sealed this Declaration, all the day, month, and year first above written.

Signed, sealed and delivered  
in the presence of:

  
Notary Public


(NOTARY SEAL)

My Commission Expires:  
Notary Public, Rockdale County, Georgia  
My Commission Expires March 17, 2002



DECLARANT:  
ATLANTA GAS LIGHT COMPANY,  
a Georgia Corporation

By:

  
Paul R. Shlanta  
Senior Vice-President

(CORPORATE SEAL)



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EXHIBIT "A"

ALL THAT TRACT OR PARCEL of land lying and being in the City of Augusta, in the 87<sup>th</sup> G.M.D., Richmond County, Georgia, and being more particularly described as follows:

BEGINNING at a #4 rebar set on the northeastern right-of-way line of 8<sup>th</sup> Street (nominal 60-foot right-of-way), said rebar set being located a distance of 157.00 feet as measured north 58 degrees 00 minutes 37 seconds west along said right-of-way line from the intersection of the northeastern right-of-way line of 8<sup>th</sup> Street with the westerly right-of-way line of Taylor Street (nominal 100-foot right-of-way); running thence along said right-of-way line of 8<sup>th</sup> Street, north 58 degrees 00 minutes 37 seconds west a distance of 38.27 feet to a #4 rebar set; thence leaving the northeastern right-of-way line of 8<sup>th</sup> Street, and running north 31 degrees 59 minutes 23 seconds east a distance of 140.87 feet to a #4 rebar set; running thence south 58 degrees 00 minutes 37 seconds east a distance of 38.27 feet to a #4 rebar set; running thence south 31 degrees 59 minutes 23 seconds west a distance of 140.87 feet to the #4 rebar set at the POINT OF BEGINNING; according to ALTA/ACSM Land Title Survey for "Atlanta Gas Light Company and Chicago Title Insurance Company," dated April 3, 2001, prepared by W.R. Toole Engineers, Inc, under the seal and certification of Barry A. Toole, Georgia Registered Land Surveyor No. 2565, and under Job No. 01068P; said tract of land being improved property having a residential house located thereon and having a street address of 814 8<sup>th</sup> Street according to the present system of numbering in the vicinity; said tract of land containing 0.12 acre (5,391.09 square feet) according to said survey, which survey is incorporated herein and made a part hereof by reference.

Filed in this office:  
Augusta - Richmond County  
12/06/2001 16:20:28.00  
Elaine C. Johnson

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Elaine C. Johnson, Richmond County Clerk of Superior Court